

Defendant.

[illegible]

) Case No. CIV-14-333-F

A. Parties

4. The Defendant, Safeco Insurance Company of America, is licensed to conduct business in the state of Oklahoma and may be served with process through the Oklahoma Department of Insurance.

5. This action is not related to any other case filed in this court.

B. Jurisdiction

6. The court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 because there is diversity between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

C. Facts

7. At all times material hereto the Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, owned a home located at 100 N. Wyndemere Lakes Drive, Moore, Oklahoma.

8. On or about May 20, 2013, Plaintiffs' home was damaged as the result of a tornado and wind storm.

9. At all times material hereto, the Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, were insured under the terms and conditions of homeowners insurance policy, policy number OY6542263, issued by the Defendant, Safeco Insurance Company of America.

10. At all times material hereto, Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, complied with the terms and conditions of their insurance policy.

11. Tornado and wind damages are covered perils not otherwise excluded pursuant to the terms and conditions of the policy issued by the Defendant.

D. Count I Breach of Contract

12. Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, hereby assert, allege and incorporate paragraphs 1-11 herein.

13. The property insurance policy No. OY6542263, issued by Defendant, Safeco Insurance Company of America, was in effect on May 20, 2013.

14. The acts and omissions of Defendant, Safeco Insurance Company of America, in the investigation, evaluation and payment of Plaintiffs' claim were unreasonable and constitute a breach of contract for which contractual damages are hereby sought. Defendant, Safeco Insurance Company of America, breached its contract with Plaintiffs by failure to conduct a proper investigation and evaluation of Plaintiffs tornado damaged home. The Defendant's acts and omissions resulted in the Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, being paid nothing for damages to their home.

15. Defendant, Safeco Insurance Company of America's failure to pay these covered damages is unreasonable and amounts to a breach of the insurance contract because the damages are the result of the May 20, 2013 tornado, a loss which is explicitly covered by the terms and conditions of the policy issued by Defendant.

E. Count II Bad Faith

16. Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, hereby assert, allege and incorporate paragraphs 1-15 herein.

17. The acts and omissions of the Defendant, Safeco Insurance Company of America, in the investigation, evaluation and payment of Plaintiffs' claim were unreasonable and constitute bad faith for which bad faith and extra-contractual damages are hereby sought.

18. Defendant, Safeco Insurance Company of America, acted unreasonably and in bad faith by failing to conduct a reasonable investigation of Plaintiffs' tornado claim. Defendant, Safeco Insurance Company of America, also failed to work with Plaintiffs and their representatives in the investigation of their claim and refused to acknowledge and pay for obvious storm damage to Plaintiffs' home.

19. Defendant, Safeco Insurance Company of America, acted unreasonably, outside of insurance industry standards and breached its contract in bad faith by failing to adopt, implement and/or otherwise follow good faith claims handling guidelines regarding communication, investigation, evaluation and timely payment of first party claims. Additionally, Defendant, Safeco Insurance Company of America, did not provide promised claim documents to Plaintiffs, including an engineering report pertaining to the claim. The Defendant, Safeco Insurance Company of America, was further unreasonable and in bad faith for failing to timely respond to Plaintiffs' proof of loss and for forcing Plaintiffs to file a lawsuit to recover policy benefits that are due and owing pursuant to the terms and conditions of Plaintiffs insurance policy.

20. The Defendant also acted in bad faith by accusing Plaintiffs' roofing contractor of intentionally causing damage to Plaintiffs' composition shingles. Had Defendant, Safeco Insurance Company of America, conducted a reasonable and good faith inspection of Plaintiffs' home and roof it would have revealed that Plaintiffs' roof was clearly damaged by the tornado and its affiliated winds and not by intentional malfeasance of the Plaintiffs or their roofing contractor.

F. Count III Punitive Damages

21. Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, hereby assert, allege and incorporate paragraphs 1-20 herein.

22. The unreasonable conduct of the Defendant, Safeco Insurance Company of America, in the handling of Plaintiffs' claim was intentional, willful, wanton and was committed with a reckless disregard for the rights of the Plaintiffs for which punitive damages are hereby sought.

G. Demand for Jury Trial

23. The Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, hereby request that the matters set forth herein be determined by a jury of their peers.

H. Prayer

24. Having properly plead, Plaintiffs, Daniel Berkowitz and MaryGrace Berkowitz, hereby seek contractual, extra-contractual, bad faith and punitive damages against the Defendant, Safeco Insurance Company of America, all in an

amount in excess of \$75,000.00; including costs, interest and attorney fees.

Respectfully submitted,

S/ Michael D. McGrew

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